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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 IN RE: TERRORIST ATTACKS  
4 ON SEPTEMBER 11, 2001

03 MDL 1570

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5 New York, N.Y.  
6 October 4, 2019  
11:00 a.m.

7 Before:

8 HON. SARAH NETBURN

9 Magistrate Judge

10  
11 APPEARANCES (via telephone)

12 COZEN O'CONNOR

Attorneys for Plaintiffs' Executive Committee

13 BY: SEAN CARTER

14 MOTLEY RICE LLP

Attorneys for Plaintiffs' Executive Committee

15 BY: ROBERT HAEFELE

JOHN EUBANKS

16 KREINDLER & KREINDLER LLP

Attorneys for Plaintiffs' Executive Committee

17 BY: ANDREW MALONEY

18 ANDERSON KILL PC

Attorneys for Plaintiffs' Executive Committee

19 BY: JERRY GOLDMAN

20  
21 BERNABEI & WACHTEL PLLC

Attorneys for Defendants' Executive Committee

22 BY: ALAN KABAT

23 LAW FIRM OF OMAR T. MOHAMMEDI LLC

Attorneys for Defendants' Executive Committee

24 BY: OMAR MOHAMMEDI

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1 APPEARANCES (Continued)

2 JONES DAY

Attorneys for Dubai Islamic Bank

3 BY: STEVEN COTTREAU  
4 GABRIELLE PRITSKER

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(In chambers)

THE COURT: There is Judge Netburn. Do we have everyone now? Thank you, Ms. Pritsker.

So, we are here with my law clerk and with a court reporter. I'm going to go over the game rules, which are that I'm going to ask folks to state their appearance. If you can please only state your appearance if you anticipate speaking. If you are on the line but you don't anticipate speaking, there is no need for you to state your appearance. If at some point later in the conference you realize that you do need to speak, you can state your appearance at that time.

Second, I just want to remind everybody that before you speak it's important that you identify yourself so that your statements can be attributed to the right person, and please do that even if you're confident that we all recognize your voice. That way we can be assured to have a complete transcript.

So let me ask whoever is on the line and anticipates speaking on behalf of the Plaintiffs' Executive Committee to state their appearance.

MR. CARTER: Your Honor, Sean Carter on behalf of the Plaintiffs' Executive Committee.

MR. HAEFELE: Your Honor, Robert Haefele. And I have with me John Eubanks on behalf of the Plaintiffs' Executive Committee.

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1 THE COURT: Thank you. Anybody else from the PEC?

2 MR. MALONEY: Your Honor, Andrew Maloney from  
3 Kreindler. I wasn't planning on speaking but I'm here.

4 MR. GOLDMAN: Jerry Goldman from Anderson Kill.

5 THE COURT: OK, thank you. Again, if anyone plans on  
6 speaking that didn't state their appearance, they can do so at  
7 a later time.

8 And Mr. Kabat, are you on the line for the Defendants'  
9 Executive Committee? Who is here for the Defendants' Executive  
10 Committee?

11 MR. KABAT: Alan Kabat.

12 THE COURT: Thank you. Anybody else here from the  
13 Defendants' Executive Committee?

14 MR. MOHAMMEDI: Omar Mohammedi. Good morning, your  
15 Honor.

16 THE COURT: Good morning.

17 MR. COTTREAU: Your Honor, this is Steve Cottreau.  
18 With me is Gabrielle Pritsker for Dubai Islamic Bank on the  
19 defense side.

20 THE COURT: Anybody else here on behalf of a  
21 defendant?

22 OK. I believe we have two items on our agenda today.  
23 The first is to set a schedule for expert discovery in the  
24 cases brought that are currently in merits discovery as well as  
25 the individual defendants in jurisdictional discovery. The

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1 second item on the agenda is to set a briefing schedule for  
2 class certification in the O'Neil case.

3 So let's begin with expert discovery. We have been  
4 sort of talking about this issue over the last few months, but  
5 I have not had clarity on precisely what sort of expert  
6 discovery the parties are anticipating.

7 I see from the October 17 letter that at a minimum not  
8 only are the plaintiffs anticipating having an affirmative  
9 expert or experts, but that the defendants, in addition to  
10 rebuttal reports, are contemplating affirmative reports on  
11 their own. So, let me begin by asking someone from the  
12 plaintiffs side to tell me exactly what sort of expert reports  
13 you are contemplating.

14 MR. CARTER: Your Honor, this is Sean Carter. We  
15 obviously have about ten defendants or so who are actively on  
16 some level participating in the discovery proceedings, and so  
17 we anticipate that we're going to need experts to address the  
18 conduct of those defendants as reflected in governmental and  
19 other reports as well as in the discovery materials and  
20 deposition testimony that's been provided by defendants, and  
21 then experts also to place those in context with regard to the  
22 development of the Al-Qaeda organization, how it used its  
23 resources to build the infrastructure necessary to attack  
24 America and how it deployed those resources to attack America  
25 as well.

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1           There has also been a fair amount of financial  
2 information provided, including accounting reports and audits  
3 by certain of the defendants, so it may be necessary to have  
4 some experts with particular expertise in those areas.

5           Our goal is to refine the population of experts as  
6 much as possible and use a limited number of people. There is  
7 some bandwidth issues with doing that. An individual expert  
8 may be able to address multiple issues that we think we need to  
9 make an expert proffer on, but that person is going to need  
10 some time to get through all of those, which is sort of built  
11 into the structure that we proposed.

12           THE COURT: So what I think I heard from you are three  
13 different types of reports: One is a report about Al-Qaeda  
14 from maybe a historian or someone with intelligence background;  
15 the second category are potentially financial reports,  
16 presumably some sort of accountant or CPA who might evaluate  
17 the audits and the financial records from the various  
18 organizations; and then, thirdly, experts -- I am assuming  
19 again maybe historians or intelligence people -- who can talk  
20 about each of these organizations and what their work is and  
21 how that interfaces with your allegations. Is that a fair  
22 assessment?

23           MR. CARTER: That's fair, your Honor. There are, in  
24 addition, some issues relating to particular conflicts or  
25 developments that were occurring in various regions. We're

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1 obviously dealing with a global enterprise, and many of the  
2 defendants had global footprints that we have alleged were  
3 involved, and there might be some context with regard to what  
4 was going on in those particular regions and their relationship  
5 to Al-Qaeda's agenda and in certain cases specifically to the  
6 9/11 attacks that are relevant. But I see that in the category  
7 your Honor described as being sort of a broader understanding,  
8 and it may be single person or it may be multiple.

9 THE COURT: All right. Let's put a pause there for a  
10 moment. Let me turn to the defendants.

11 In the October 17 letter there is an indication that  
12 the defendants are anticipating their own affirmative experts  
13 in addition to rebuttal experts. Who are those affirmative  
14 experts that you are contemplating?

15 Mr. Kabat, are you going to be speaking on this?

16 Is there anybody here on the line -- Mr. Mohammed or  
17 Mr. Cottreau -- who is going to speak about the defendants'  
18 experts?

19 MR. COTTREAU: Your Honor, this is Steve Cottreau.  
20 Possibly Mr. Kabat is having technical difficulties. I'm happy  
21 to speak to it.

22 I don't think we have made final decisions on our side  
23 about experts, but certainly some of the topics that plaintiffs  
24 are anticipating are topics that defendants are anticipating,  
25 including Al-Qaeda-related experts; potentially for my client,

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1 which is a bank, banking-related experts; and also some of the  
2 accounting issues are certainly things that we are looking at  
3 on our side as well.

4 THE COURT: Why would those not be submitted in the  
5 form of a rebuttal report?

6 MR. COTTREAU: Your Honor, I think it's very tough in  
7 this situation to say that it would be rebuttal, because some  
8 courts construe that very narrowly, and thus if we have an  
9 opinion that strays too far -- our experts have an opinion that  
10 strays too far from what plaintiffs' experts have said -- it  
11 could be considered to be an affirmative opinion. And also  
12 we're just not sure what plaintiffs are going to be offering as  
13 affirmative opinions to say that the opinions of our expert are  
14 going to be fully considered to be rebuttal opinions.

15 THE COURT: OK. I'm very much disinclined to adopt  
16 the schedule that's been proposed, in part because of this  
17 staggered proposal where affirmative reports are filed on one  
18 day and then thereafter additional affirmative reports are  
19 filed.

20 I see that the parties at least are proposing that the  
21 plaintiffs would have an opportunity for rebuttal reports of  
22 those experts -- of the affirmative experts. It seems to me  
23 there must be an easier way to address your concern, including,  
24 for example, that what would otherwise be identified as your  
25 rebuttal report would include any additional information within



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1 the subject matter -- accounting, banking, whatever the subject  
2 matter is -- and then, if necessary, the plaintiffs could have  
3 a limited response to that additional information.

4 MR. COTTREAU: Your Honor, this is Steve Cottreau. I  
5 think that's what we had anticipated, that plaintiffs would  
6 disclose their expert opinions, that the defendants' all-in-one  
7 opinion would disclose their expert opinions, and then  
8 plaintiffs -- to the extent there was anything new in the  
9 defense expert reports -- plaintiffs' experts would have a  
10 chance to address that material.

11 So, I think that's what we had tried to capture with  
12 this schedule, as opposed to, as you know, the other popular  
13 way to do this is you have a simultaneous exchange of  
14 affirmative reports and a simultaneous exchange of rebuttal  
15 reports.

16 I think the point that the schedule that we propose  
17 makes is that the defendants wouldn't then have to file two  
18 sets of reports for their experts; their experts could do it  
19 all with one report; and it's only on plaintiffs' side that you  
20 would have two sets of reports. So, I think the way we have  
21 tried to address this schedule for experts cuts down on the  
22 number of expert reports and actually makes this a bit simpler.

23 MR. CARTER: Your Honor, this is Sean Carter again. I  
24 just wanted to note that during the conversation the PECs did  
25 express their view that affirmative expert reports should

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1 normally be exchanged simultaneously, and that's our general  
2 position. We agreed to the staggering just for the sake of  
3 reaching an agreement rather than having to brief the dispute  
4 for the Court.

5 THE COURT: So, look, there is no scenario in which  
6 I'm adopting the schedule that you've proposed. From what I  
7 hear from the parties, the majority of the experts that you're  
8 contemplating are experts with information probably that they  
9 have by way of their own expertise, and only a limited amount  
10 is probably by way of the discovery that you've collected over  
11 these past years or months. So, I'm not sure why we need to  
12 have a schedule that puts us all the way to 13 months from  
13 today in order to complete expert discovery.

14 On the one hand, I appreciate that this case is  
15 obviously of extraordinary scope and that the nature of the  
16 allegations are exceptional. That said, the types of experts  
17 that you are talking about do not strike me as particularly  
18 exceptional, and I haven't heard anything yet to suggest that,  
19 for instance, the plaintiffs need five months from today to  
20 file an expert report.

21 I would imagine that these experts that you are  
22 contemplating are people that you have been in touch with over  
23 the last decade as you develop your theory of the case, and so  
24 I haven't heard anything yet to hear a basis for the deadlines  
25 that are proposed.

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1 With respect to the scheduling, I would like to  
2 shorten it, and if the best way to do it is to have any party  
3 who is filing an affirmative reports to file it in the first  
4 instance, and then thereafter to file any rebuttal report so  
5 that the parties both have an opportunity to sort of clean up  
6 or respond to anything new, that seems to me the most efficient  
7 way to proceed rather than having a three-stage process.

8 MR. NASSAR: Your Honor, this is Waleed Nassar on  
9 behalf of the Muslim World League, the International Islamic  
10 Relief Organization and the charity officials. I think we're  
11 in a bit of a different posture than Steve and maybe some of  
12 the codefendants in that we have had approximately nine  
13 depositions over the past year and a half that have kind of  
14 made clear -- more clear what plaintiffs' theory of the case is  
15 against our client in particular.

16 As you are aware, later this month Wael Jelaidan is  
17 set to be deposed as well later in Saudi Arabia. So, it  
18 certainly has not been the case for our defendants where we  
19 have known particularly which experts we would need to use over  
20 the past decade or so. A lot of that has been evolving over  
21 the past few months. That's not to say that the current  
22 schedule that we are proposing is obviously necessary for our  
23 clients, but we have had an evolving I think offense where a  
24 lot of it has been subsequent to what has happened in the  
25 recent depositions as well as what may or may not happen in the

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1 deposition later this month.

2 THE COURT: OK, thank you.

3 MR. CARTER: Your Honor, this is Sean Carter. If I  
4 can speak to the point your Honor raised about sort of the  
5 nature of the expert reports and the relative complexity of it.

6 I think what Mr. Nassar just said is true for the  
7 plaintiffs as well. Without getting into any disagreements  
8 that we've had along the way, plaintiffs' view is that many of  
9 the documents that have been produced were in a disorderly  
10 fashion and were very difficult to understand simply as  
11 presented, and so the depositions have been relatively  
12 significant in understanding a bit better the content and  
13 context of the documents which number into the millions of  
14 pages we have received from the defendants along the way.

15 So, we do have quite a bit of information that needs  
16 to be fed into the experts, and we're dealing with ten  
17 defendants. There is some interrelationships among some of  
18 them but they obviously have to be addressed on their own  
19 relative merits.

20 And as I mentioned at the outset, one of the things  
21 that we're hopeful being able to do is refine the number of  
22 experts by using people who have qualifications to address as  
23 many issues as is possible, but there is a bandwidth issue  
24 there. We are still in depositions. We have one later this  
25 week, and we have the Jelaidan deposition towards the end of

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1 November, and we're cognizant that experts are going to have  
2 some time demands in other areas particularly at the end of the  
3 year around the holidays. But with all that said, we obviously  
4 had in discussions suggested the notion of a simultaneous  
5 exchange perhaps being more efficient, and we're fine with  
6 that.

7 THE COURT: I assume at least some of these experts  
8 are known to you at this point. Why are you not feeding them  
9 documents on a real-time basis?

10 MR. CARTER: Well, your Honor, we have been feeding  
11 them some documents on a real time basis, but part of the issue  
12 is that there was quite a lot of largely irrelevant material in  
13 the documents, and we have had to go through a deposition  
14 process in order to separate the wheat from the chaff in some  
15 cases, and to narrow down sort of the particular transactions,  
16 relationships that stand out, and that has been ongoing through  
17 the deposition process including two weeks ago when we were in  
18 Madrid.

19 So, we have been working through it, but we still  
20 don't even have final deposition transcripts in some cases for  
21 some of these people. And again we're dealing with we're the  
22 plaintiffs, we have the burden of proof, we have that burden  
23 with regard to a group of ten defendants, so it's a relatively  
24 expansive expert undertaking even if we try to refine it to as  
25 few people as possible.

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1 THE COURT: Do you think you could identify your  
2 experts and the subject matter within 30 days from now?

3 MR. CARTER: Without conferring with my cocounsel and  
4 the PECs, I would probably be overstepping my bounds, your  
5 Honor. I just want to make sure. There is some availability  
6 issues, and there is a fair number of balls in the air there,  
7 and again some of this has to do with the schedule itself, your  
8 Honor, because there may be people who say, well, under the  
9 timeline that you're suggesting I can't undertake that whole  
10 group of issues; I can only take two of the five, so you're  
11 going to have to find someone else. So, there is a little bit  
12 of that discussion ongoing on our side.

13 THE COURT: OK, let me go back.

14 MR. SALERNO: Your Honor, this is Peter Salerno for  
15 defendant Yassin Kadi. If I may interject on another  
16 defendant's side here.

17 Unlike Mr. Nassar, we have no idea what the claims  
18 against our client are. The most recent claims are the 15 year  
19 old ones and a bunch of complaints. We have not been able to  
20 develop a theory of a defense because we have no idea what the  
21 theory of the case is.

22 There has been one deposition about our client, and it  
23 was our client, so he did not inculcate himself. So, we share  
24 Mr. Cottreau's concern that right now we have no idea what an  
25 affirmative expert on our side would look like, but that could

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1 certainly change when you see what the plaintiffs provide. And  
2 as Mr. Cottreau said, if the law that's going to be applied  
3 here is that rebuttal is narrow, we might be in the same  
4 position that Mr. Cottreau is concerned about.

5 THE COURT: Thank you.

6 Mr. Cottreau, let me return back to you since you  
7 began the conversation. If we were to have a schedule where  
8 the plaintiffs and defendants both produced whatever expert  
9 reports they anticipated in the first instance but with an  
10 opportunity to file a rebuttal report thereafter, what  
11 prejudice do you think would flow to your client?

12 MR. COTTREAU: Your Honor, I just thought the most  
13 efficient way here on the defense side. These tend to be very  
14 expert intensive cases, Antiterrorism Act cases. We took a  
15 look at three cases in preparation for today's hearing -- Lin  
16 v. Aerobank, which was in the Eastern District; Sokolow v. PLO,  
17 which was before Judge Daniels; and Strauss v. Credit Lyonnais,  
18 which was also in the Eastern District -- and during their  
19 expert phases those were essentially all single-defendant  
20 cases. The two sides had somewhere between 20 and 32 experts  
21 by our count of public documents, so even in a single-defendant  
22 case these tends to be quite extensive in terms of the number  
23 of experts. Our hope is that we're in that range even though  
24 we have a multiple-defendant case here. But it tends to be a  
25 very complicated affair in terms of the expert work, and so we

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1 thought the one great thing about the schedule that we proposed  
2 at least in the sequencing was that at least from the defense  
3 experts -- and we anticipate there could be more than a dozen  
4 of those -- they would only need to file a single report that  
5 contained both affirmative and rebuttal opinions, and we could  
6 cut down substantially on the number of expert reports that  
7 need to be reviewed in this case with the standard schedule, as  
8 opposed to those experts having to file two reports,  
9 affirmative and rebuttal, and we wind up with another dozen or  
10 more expert reports in this case.

11 THE COURT: OK. All right, this was helpful. I think  
12 I'm going to take all the information that I have here and sit  
13 on it for a little bit of time and issue an order.

14 I will give you these parting words, which are that  
15 expert discovery is going to conclude far sooner than December  
16 7, 2020. So if you need to do anything when we hang up the  
17 phone, you might want to call your experts.

18 I will try and be as respectful and reasonable as  
19 possible, but a schedule that contemplates 13 months of expert  
20 discovery is not something that I'm going to endorse. I really  
21 want to move this case forward as quickly as possible. I know  
22 that the parties do too. The types of experts that you are all  
23 contemplating from my perspective seem largely -- not  
24 exclusively or entirely -- but largely experts who intend to  
25 discuss topics that you are already familiar with, and so I



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1 don't see this as a typical case where you need to complete all  
2 of fact discovery and get that over to your experts. It seems  
3 to me most of these experts, given their likely background,  
4 could be developing their expert reports already and then  
5 filling in information with the discovery that you've  
6 collected.

7 So, I'm not inclined to give the parties the scope of  
8 time that you're seeking here, but I will take everything that  
9 you've said under advisement and will issue an order in the  
10 next couple of days.

11 Let's move to the class action. And I will invite at  
12 this point anyone who doesn't need to be on the line to get  
13 off. I think that this is a smaller group of people. I guess  
14 before I do that, I will just see if anyone who would otherwise  
15 get over the phone has anything else to add to today's  
16 conference. OK. Hearing nothing, I will assume that the  
17 topic, agenda item 1, is done.

18 So, the next question is with respect to the class  
19 certification briefing. And I have the October 15 letter from  
20 Mr. Cottreau. And, Mr. Goldberg, are you the plaintiff's  
21 lawyer in this case?

22 MR. GOLDMAN: Yes, your Honor. Goldman.

23 THE COURT: Goldman. Excuse me. I apologize.

24 All right. So we have a proposed motion here to be  
25 filed January 31. Can I just get a little bit more clarity

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1 here on what this class action looks like? I understand that  
2 the defendants in this case are the various organizations and  
3 the Dubai Islamic Bank as well as Mr. Kadi. Is that correct?

4 MR. GOLDMAN: That's correct, your Honor. It is most  
5 of the defendants who are in front of your Honor but not  
6 completely all of them. By and large most of the individual  
7 jurisdictional defendants are not involved.

8 THE COURT: OK. Mr. Kadi is involved; is that  
9 correct?

10 MR. GOLDMAN: That is correct. And you're right, your  
11 Honor, Dubai Islamic Bank.

12 THE COURT: And what is the class that you're seeking  
13 to certify, just so I have a sense of what we're talking about  
14 here?

15 MR. GOLDMAN: The class is as defined in the original  
16 pleadings last amended September 30, 2005. We see no reason to  
17 enlarge that class right now. I would have to speak to my  
18 cocounsel as to whether or not we can limit that class. I  
19 suspect for this piece of litigation we will limit it somewhat.  
20 My guess is it will finally end up being about 700, 800  
21 families.

22 THE COURT: 700 to 800 families. And so these are  
23 families who have a family member who was killed in the 9/11  
24 attacks and against whom you are moving for these particular  
25 defendants?

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1 MR. GOLDMAN: That is correct. It would consist of  
2 the estates of those who were killed as well as the limited  
3 categories of family members, spouses, children, siblings and  
4 parents.

5 THE COURT: And you said 700 to 800 families. Who is  
6 in and who is out? There are obviously more than that many  
7 families affected by the attacks.

8 MR. GOLDMAN: That's correct. I would have to speak  
9 to my cocounsel from Motley primarily and Kreindler on that to  
10 make the final determination, but the out would be those who  
11 were in those particular actions.

12 THE COURT: So families who are in other cases are not  
13 going to be covered?

14 MR. GOLDMAN: That is our inclination. I have to  
15 finalize that, your Honor.

16 THE COURT: OK. And I guess -- and so presumably  
17 there are lots of family members who might be covered by this  
18 class action who are currently represented by other lawyers,  
19 and I presume that those family members will opt out of your  
20 class action. Is that your assumption as well?

21 MR. GOLDMAN: I don't believe that there are very many  
22 who are represented by other counsel. Under that limited  
23 definition, if I back out the Motley group, if I back out the  
24 Kreindler group, there are very few. Let's say I also back out  
25 the Havlish group, and let's assume that there have been no

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1 other families, I think maybe 25 to 30 other personal reps are  
2 in the case. I'm also backing out, your Honor, the inhalation  
3 cases.

4 THE COURT: The what cases?

5 MR. GOLDMAN: The injury cases, the people who were  
6 injured or including those who passed away later on.

7 THE COURT: Forgive me for asking this question, but  
8 what purpose does your class action serve if all of these  
9 categories of families are going to be excluded from your class  
10 action?

11 MR. GOLDMAN: Because we're including about 800  
12 families.

13 THE COURT: Who are not otherwise represented?

14 MR. GOLDMAN: Correct.

15 THE COURT: OK. And on your class certification  
16 motion, obviously you need to satisfy Rule 23. Can you give me  
17 a little preview of what this motion looks like?

18 MR. GOLDMAN: The motions would look like a  
19 description of the case, a description of the class, a  
20 description of how the class representatives meet the Rule 23  
21 standards, a description of how the case meets the Rule 23  
22 standards, adequacy of class counsel, adequacy of class  
23 representatives. We had depositions last week of the three  
24 named class representatives.

25 THE COURT: OK. Why do you need three months from

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1 today to file this motion?

2 MR. GOLDMAN: There is somebody else on the line that  
3 sometimes cuts in, so I can't a hundred percent hear what  
4 you're saying, but if I thought I heard you, it's why we need  
5 three months?

6 THE COURT: Correct.

7 MR. GOLDMAN: Part of it was dealing with the expert  
8 piece. Part of it was dealing with other parts of litigation  
9 in this case, and then I didn't want to back it up so it was  
10 due right at the end of the holidays.

11 THE COURT: OK. Do you think you could be prepared to  
12 file it by let's say December 16, by the middle of December?  
13 Would that be something you could do?

14 MR. GOLDMAN: I think that would be rather difficult,  
15 your Honor. If your Honor has concerns about the time, I could  
16 finish it two or three weeks earlier than say the middle of  
17 January or sometime a little bit earlier in January.

18 THE COURT: All right. And, Mr. Cottreau, are you  
19 going to be taking the lead, your firm, on the opposition to  
20 this class motion?

21 MR. COTTREAU: Yes, your Honor, I think for purposes  
22 of this discussion we will take the lead.

23 THE COURT: And so I have a similar question, which is  
24 now that I have some sense of what this class action motion is  
25 going to look like, it sounds like it will be limited on sort

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1 of liability issues, and I think more about the Rule 23  
2 standards, which is typical obviously. So, why do you need an  
3 additional 60 days to respond? I mean again I appreciate this  
4 is 9/11, but this also looks like a classic class certification  
5 motion which defendants typically respond to in 30 days.

6 MR. COTTREAU: Your Honor, your understanding of  
7 clarity that it's limited to liability issues is not our  
8 understanding. Our understanding is that plaintiffs in the  
9 O'Neil case are still contemplating whether this will be as to  
10 liability only or as to liability and damages as a class  
11 action. So, I would say that we have a lack of clarity about  
12 exactly how the class is going to be formulated and for what  
13 purposes it's going to be formulated.

14 We could certainly accelerate our time to respond. I  
15 would just ask for an extra couple of weeks off the 30 days  
16 that you are proposing so we have time to consult with our  
17 foreign clients and make a decision about opposition and also  
18 to get on the same page with our codefendants on that issue,  
19 but I think we could respond in 45 days.

20 THE COURT: OK.

21 MR. GOLDMAN: Your Honor, so it's clear, we're not  
22 limited solely to the issue of liability and the discovery that  
23 took place last week and the interrogatories earlier that dealt  
24 both with damages and liability.

25 THE COURT: And you intend to raise all of that in

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1 your motion?

2 MR. GOLDMAN: Yes.

3 THE COURT: OK. I will take all of this under  
4 advisement as well and get an order out on how to proceed.

5 OK. Anything further?

6 MR. GOLDMAN: No, your Honor.

7 THE COURT: OK. Thank you everybody.

8 MR. GOLDMAN: Thank you, your Honor.

9 MR. COTTREAU: Thank you, your Honor.

10 (Adjourned)